

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

OPENWAVE SYSTEMS INC.,

No. C 10-02805 WHA

Plaintiff,

v.

MYRIAD FRANCE S.A.S.,

Defendant.

**ORDER TO SHOW
CAUSE AND REFERRING
CERTAIN DISCOVERY
DISPUTES FOR ASSIGNMENT
TO A MAGISTRATE JUDGE**

AND RELATED COUNTERCLAIMS


The Court has received Attorney Leibnitz's letter dated April 25 on behalf of Myriad France. On the eve of the discovery cutoff, this letter seeks a number of orders to compel further discovery. Except for the last item concerning Openwave's allegedly belated expert disclosures, all requests set forth in Attorney Leibnitz's letter are hereby **REFERRED** to the Clerk for random assignment to a magistrate judge. The Court is disappointed that Myriad waited until the eve of the discovery cutoff to raise so many alleged discovery violations. The magistrate judge, however, should resolve all of the alleged violations and order appropriate relief if warranted. Additionally, the magistrate judge is requested to make specific findings regarding Attorney Leibnitz's severe allegation of intentional destruction of evidence.

In the meantime, the case management schedule remains in effect, and all parties must adhere to all deadlines. In this connection, Openwave Systems is **ORDERED TO SHOW CAUSE**

1 why its late designation of expert testimony, summarized at page 3 of the letter, should not be
2 stricken. Openwave's submission must be filed by **NOON ON MAY 3, 2011**. Myriad then may file
3 a reply by **NOON ON MAY 6, 2011**. After reviewing these filings, it will be determined whether a
4 hearing is in order. Additionally, Myriad must immediately supply the writing in which
5 Openwave made the assertion attributed to Openwave in the second sentence of the last paragraph
6 of the letter.

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8 **IT IS SO ORDERED.**

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10 Dated: April 26, 2011.


11 WILLIAM ALSUP
12 UNITED STATES DISTRICT JUDGE
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